

No. _____

In the
Supreme Court of the United States

NATNAEL ZEMENE,
Petitioner

vs.

COMMONWEALTH OF MASSACHUSETTS
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

For Natnael Zemene

Esther J. Horwich, Esq.
9 Surrey Road
Newton, MA 02458
(617) 523-1150 (phone)
ejh.atty@verizon.net
June 3, 2025

Pursuant to Rule 39 of the Rules of the Supreme Court of the United States, the petitioner requests leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. This relief is warranted because during all phases of the proceedings below, the petitioner has been found to be indigent and counsel has been appointed to represent him. On September 7, 2022, present counsel was appointed to represent him in the Cambridge District Court (2152 CR 000735) where she filed a post-conviction motion to set aside the verdict. A copy of the relevant portion of the docket is attached as Appendix A. On April 18, 2024, the Massachusetts Supreme Judicial Court allowed the petitioner's motion to waive the filing fees on grounds of indigency (SJC-13592). A copy of the relevant portion of the docket is attached as Exhibit B. On April 4, 2025, the Committee for Public Counsel Services which assigns counsel for indigent individuals, authorized present counsel to represent the petitioner before this Court to file a Petition for Writ of Habeas Corpus (NAC #D28177936). A copy of the correspondence is attached as Appendix C.

The relevant provisions of Massachusetts law pertaining to the appointment of counsel are G.L. c. 211D, §§2 and 5, Rule 8 of the Massachusetts Rules of Criminal Procedure and Supreme Judicial Court Rule 3:10.

WHEREFORE, Mr. Zemene respectfully requests that this Court grant his motion to proceed *in forma pauperis*.




Respectfully submitted,

June 3, 2025

Date

/s/ Esther J. Horwich

Esther J. Horwich
9 Surrey Road
Newton, MA 02458
(617) 523-1150
ejh.atty@verizon.net

<u>Docket Date</u>	<u>Docket Text</u>	<u>Image Avail.</u>
08/12/2022	Defendant's motion for transcript filed with the following, if any, supporting documents:	
08/12/2022	Defendant's motion to revise/revoke sentence (Rule 29) filed with the following, if any, supporting documents: affidavit in support of motion	
08/12/2022	Notice of appeal to the Appeals Court filed by the Defendant	
	Judge: Frank, Hon. David E	
08/12/2022	Trial exhibit list filed.	
	Judge: Frank, Hon. David E	
08/12/2022	List of Jurors rendering verdict filed	
	Judge: Frank, Hon. David E	
08/12/2022	Jury verdict slip filed.	
	Judge: Frank, Hon. David E	
08/12/2022	Judicial finding regarding assessment or waiver of monies in criminal case filed.	
	Judge: Frank, Hon. David E	
08/12/2022	All charges disposed - No future events - Defendant discharged.	
08/12/2022	Docket report of court proceedings to date	
08/12/2022	Order to transfer or forfeit exhibits	
	Judge: Frank, Hon. David E	
09/07/2022	Appearance filed On this date Esther Joanne Horwich, Esq. added as Appointed - Indigent Defendant for Defendant Natnael Zemene Appearance filed for the purpose of Case in Chief by Judge Hon. David E Frank.	
11/30/2022	Defendant's motion to Stay execution of sentence pending appeal and request for a hearing filed with the following, if any, supporting documents: affidavit in support of motion, certif. of service on opposing party	
11/30/2022	Defendant's motion for Pursuant to Mass .R. Crim. P. Rule 25(b)(2) to set aside the Verdict in the Interest of Justice filed with the following, if any, supporting documents: affidavit in support of motion, certif. of service on opposing party	
11/30/2022	Habeas Corpus for prosecution issued to Middlesex County House of Correction returnable for 12/12/2022 09:00 AM Motion Hearing (CR): Further Orders: IN-PERSON	
12/12/2022	Event Resulted: Motion Hearing (CR) scheduled on: 12/12/2022 09:00 AM Has been: Reschedule of Hearing For the following reason: On Order of the Court Hon. SallyAnn Janulevicus, Presiding	
12/12/2022	Habeas Corpus for prosecution issued to Middlesex Jail returnable for 12/14/2022 02:00 PM Motion Hearing (CR): Further Orders: PLEASE TRANSPROT TO COURT. Judge: Janulevicus, Hon. SallyAnn	
12/14/2022	Event Resulted: Motion Hearing (CR) scheduled on: 12/14/2022 02:00 PM Has been: Reschedule of Hearing For the following reason: On Order of the Court Hon. Sarah Joss, Presiding	
12/15/2022	Habeas Corpus for prosecution issued to Middlesex Jail returnable for 12/19/2022 09:00 AM Motion Hearing (CR): Further Orders: Judge: Joss, Hon. Sarah	
12/19/2022	Event Resulted: Motion Hearing (CR) scheduled on: 12/19/2022 09:00 AM Has been: Held - under advisement Hon. David E Frank, Presiding	
12/19/2022	Taken under advisement Judge: Frank, Hon. David E	
12/22/2022	Motion to Stay execution of sentence pending appeal and request for a hearing DENIED.	

APPENDIX A

SUPREME JUDICIAL COURT
for the Commonwealth
Case Docket

NATNAEL ZEMENE vs. COMMONWEALTH
SJC-13592

CASE HEADER

Case Status	Decided, Rescript issued
Status Date	04/22/2025
Nature	Superintendence, c211, s3
Entry Date	04/17/2024
Appellant	Defendant
Case Type	Civil
Brief Status	
Brief Due	
Quorum	Budd, C.J., Gaziano, Kafker, Wendlandt, Dewar, Wolohojian, JJ.
Argued Date	01/06/2025
Decision Date	03/25/2025
AC/SJ Number	SJ-2024-0108
Citation	495 Mass. 573
DAR/FAR Number	
Lower Ct Number	SJ-2024-0108
Lower Court	SJC for Suffolk County
Lower Ct Judge	David E. Frank, J.
Route to SJC	Direct Entry: Appeal from Single Justice Order/Judgment

INVOLVED PARTY

Natnael Zemene
Defendant/Appellant
Blue br, app & reply br filed




Commonwealth
Plaintiff/Appellee
Red brief filed

ATTORNEY APPEARANCE

[Esther J. Horwich, Esquire](#)
[Patrick Matthew Winn, Esquire](#)

[Melissa Weisgold Johnsen, A.D.A.](#)
[Anna Taillon, A.D.A.](#)
[Timothy Ferriter, A.D.A.](#)
[Jamie Michael Charles, A.D.A.](#)

DOCUMENTS

[Appellant Zemene Brief](#) 
[Appellee Commonwealth Brief](#) 
[Appellant Zemene Reply Brief](#) 

DOCKET ENTRIES

Entry Date	Paper	Entry Text
04/17/2024	#1	Entered. (This matter is opened conditioned upon receipt of a motion to waive filing fee supported by affidavit of indigency or the entry fee of \$300.00 payable to Commonwealth of Massachusetts within 10 days.)
04/18/2024	#2	MOTION to Waive Filing Fee filed for Natnael Zemene by Attorney Esther Horwich. (4/24/2024: ALLOWED forthwith. See SJ-2024-0108.)
04/24/2024	#3	SERVICE of Memo/Appendix in Rule 2:21 appeal filed for Natnael Zemene by Attorney Esther Horwich.
04/24/2024	#4	Appendix filed for Natnael Zemene by Attorney Esther Horwich.

APPENDIX B

Subject: NAC for Assignment for Petition for Writ of Certiorari - Natnael Zemene

From: Dorothy Mele <dmele@publiccounsel.net>

Date: 4/4/2025, 5:11 PM

To: "Esther J. Horwich" <ejh.atty@verizon.net>

Hi Attorney Horwich.

At the direction of Elizabeth Dembitzer, Director of Criminal Appeals, Private Counsel Division, Committee for Public Counsel, you have been assigned as appointed counsel to represent Natnael Zemene for purposes of pursuing a Petition for Writ of Certiorari.

NAC #D28177936 has been electronically issued to you, effective April 1, 2025, and should appear in your ebill account.

On behalf of the Committee for Public Counsel, thank you for accepting this assignment.

Dolly

Dolly Mele
Murder/Post-Conviction Assignment Coordinator
CPCS
Direct Line: 617-910-5796

APPENDIX C